



COCHISE COUNTY

COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

TO: Cochise County Board of Supervisors
Through: Michael J. Ortega, County Administrator

FROM: Peter Gardner, Planner I
For: Beverly J. Wilson, Planning Director

SUBJECT: Docket Z-13-03 (Fuller)

DATE: July 29, 2013 for the August 10, 2013 Meeting

APPLICATION FOR A REZONING

The Applicant seeks to rezone a 24.31-acre parcel from TR-36 (Residential; one dwelling per 36,000-square feet) to RU-4 (Rural; one dwelling per four-acres) to build a personal residence on the site. The parcel was conditionally rezoned from RU-4 to TR-36 in 2005, to subdivide the property. The conditions have not been met and the Applicant seeks to revert the zoning to RU-4. The property (Parcel #106-15-015D) is located in the Babocomari Area Plan north of Huachuca City, AZ. The Applicant is Stephanie Fuller.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Size: 24.31-Acres
Current Zoning: TR-36 (Residential, 1-dwelling per 36,000-square feet)
Growth Area: Category B (Community Growth Area)
Area Plan: *Babocomari Area Plan*
Comprehensive Plan Designation: Low Density Residential
Existing Uses: Vacant Land
Proposed Uses: Single Family Residential

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	TR-36 - Conditional	Vacant Land
South	TR-36 - Conditional	Vacant Land
East	TR-36/RU-2 - Conditional	Vacant Land
West	SR-43 - Conditional	Vacant Land

II. PARCEL HISTORY

In 2005, a previous owner of the property applied for a rezoning from RU-4 to TR-36 and was granted Conditional Approval (Docket Z-05-26). One of the Conditions of Approval, as required by the adopted *Babocomari Area Plan* (2006), indicates that any rezoning to a higher density to facilitate residential development must proceed under the County's subdivision process. To date, no subdivision process has begun on the subject parcel. The current owner and Applicant, Ms. Stephanie Fuller, acquired the property in 2012 from the lender after the property had been foreclosed, and does not intend to subdivide the property.



Northeast view of the property.

III. NATURE OF REQUEST

The Applicant purchased the undeveloped property from a lender after foreclosure of the previous owner's note. Prior to purchasing the parcel, the Applicant, as part of her due diligence, contacted the Community Development Department for information regarding the property. At this time the Applicant was informed that the parcel was zoned TR-36, but was not informed that the zoning was conditional or what the conditions were. Due to the current conditional zoning that restricts residential development to the County's subdivision process, staff cannot issue permits for any construction beyond repair or agricultural uses. The Applicant is requesting that the conditional zoning be reverted to RU-4 to facilitate building a single-family residence. This type of rezoning request is often referred to as "*downzoning*" because if granted, the minimum lot size would increase from 36,000 sq.-ft. minimum lots to a four-acre minimum lot size.

In addition, despite the Applicant's due diligence, she was unaware of the development restrictions imposed by the conditional rezoning, and thus the Applicant has requested a waiver of the fees associated with the rezoning request.

IV. ANALYSIS OF IMPACTS

Mandatory Compliance

The subject property lies within a Category "B"—Community Growth Area and is considered a "Low-Density Residential" land use designation area per the Babocomari Area Plan. RU-4 zoning is permitted in the Category "B," "Low-Density Residential" areas, so this request to rezone to RU-4 complies with the Babocomari Plan as detailed below.



Example of current conditions in the area.

Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Eight of the criteria are applicable to this request, which, as submitted, complies with all of the eight applicable factors.

1. Provides an Adequate Land Use/Concept Plan—Not Applicable.

The Applicant intends to construct one single-family residence on the 24.31-acre site.

2. Compliance with the Applicable Site Development Standards—Complies.

As noted above, the 24.31-acre parcel is undeveloped. Downzoning to RU-4 would not negatively impact the ability of the parcel to be developed.

3. Adjacent Districts Remain Capable of Development – Complies.

The proposal would not affect the development prospects of any neighboring property.

4. Limitation on Creation of Nonconforming Uses—Complies.

If approved, the rezoning would not create any non-conforming land uses.

5. Compatibility with Existing Development –Complies.

There is precedent for RU-4 zoning in the immediate area; while there is currently no RU-4 zoning adjacent to the parcel, a significant portion of the Babocomari area retains RU-4 zoning.

6. Rezoning to More Intense Districts—Not Applicable.

As indicated, this request is for a downzoning, which in this case would reduce the permitted density by approximately a factor of five.

7. Adequate Services and Infrastructure – Not Applicable.

As this request is for a downzoning, this factor does not apply.

8. Traffic Circulation Criteria – Complies.

Because this request is to reduce density, rezoning from TR-36 to RU-4 would decrease the permitted density by a factor of approximately five, with a corresponding decrease in potential traffic.

9. Development Along Major Streets—Not Applicable.

The area is not served by roads within the County Maintenance system.

10. Infill—Not Applicable.

This Factor applies only for rezoning requests to General Business, Light Industry or Heavy Industry.

11. Unique Topographic Features – Not Applicable

As this request is for a downzoning, this factor does not apply.

12. Water Conservation—Complies.

As this proposed downzoning would reduce permitted maximum density, potential water usage would also likely decrease.

13. Public Input—Complies.

As this is a downzoning request, the Applicant was not required to complete a Citizen Review; however, a Citizen Review was conducted, and the Applicant received inquiries, but no opposition. Staff published a legal notice and notified neighboring property owners within 1,000-feet of the property and received inquiries, but no support or opposition.

14. Hazardous Materials – Not Applicable.

No hazardous materials are proposed as part of this request.

15. Compliance with Area Plan - Complies

The subject property lies within a Category “B”– Community Growth Area and is considered a “Low-Density Residential” land use designation area per the Babocomari Area Plan. The Neighborhood Conservation designation is intended to create neighborhoods with lots of one-acre or more. This request would comply by creating a minimum lot size of four-acres per dwelling.

V. SUMMARY

The rezoning (“*downzoning*”) request is for a parcel of 24.31-acres in the Babocomari. This request would eliminate a conditional rezoning that was approved eight years ago contingent on the approval of a Subdivision Plat.

Due to the failure of any developer to proceed with the subdivision process the area is characterized by open expanses, with all current development occurring on parcels zoned RU-4. The Babocomari Area Plan designates the site for Low Density Residential. This designation essentially constitutes a recommendation on the part of the Area Plan for a rezoning to a lower-density zoning district, constituting a major Factor in Favor of Approval. A rezoning to the RU-4 district would therefore reflect the policies of the Plan, and would better reflect the character of the surrounding neighborhood.

Due to a miscommunication between the Applicant and Staff regarding the implications of the current conditional zoning, the Applicant was unaware that any process such as rezoning or subdivision platting, and associated fees, would be required prior to the issuance of any building permits.

Staff’s recommendation is based upon the above analysis, as well as the following Factors in Favor and Against approval:

Factors in Favor of Approval

1. Allowing the request would be in keeping with the character of development in the area;
2. The *Babocomari Area Plan* and Comprehensive Plan policies prescribe a low density of residential development in this area to protect the current character of the neighborhood, and the request would facilitate such a density; and
3. The request would remove the conditional zoning and permit the owner to develop the property.

Factors Against Approval

None apparent

VI. RECOMMENDATION

Based on the Factors in Favor of Approval, staff recommends **Conditional Approval** of Docket Z-13-03, subject to the following standard Condition, as well as a waiver of fees in the amount of \$250.00:

1. The Applicant shall provide the County with a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors' approval of the rezoning.

VII. ATTACHMENTS

- A. Location Map
- B. Rezoning Application